

MINUTES

WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
June 27, 2011 at 6:00 P.M.

PLEDGE OF ALLEGIANCE A moment of silence was held followed by the Pledge of Allegiance.

MEMBERS PRESENT: Larry Willis, Chairman; Mike Winge, Vice Chairman; Scott Dowers, Don Mottley, Tina Baxter and Judy Writsel.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Christy Powell, Staff.

MEMBERS ABSENT: Terry Dayvolt

Roll call was taken and a quorum declared present.

MINUTES: Upon a motion made by Mike Winge and seconded by Don Mottley, the Minutes of the last regular meeting held May 23, 2011, were approved as circulated.

The Chairman explained the Rules of Procedure to the audience.

Tina Baxter entered the meeting at 6:02

BZA-V-11-12

APPLICANT: Ameristamp Sign-a-Rama by Josh Vaal, Business Development

OWNER: Tri State Hindu Temple, Inc. by KC Jain, President

PREMISES: Property located on the N side of Vann Rd. approximately 0' W of the intersection formed by Anderson Rd. (W 600) and Vann Rd. (S 325). Ohio Twp. 6044 Vann Rd.

NATURE OF CASE: Applicants request a Variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, Indiana to allow an Improvement Location Permit be issued for an on-premise sign exceeding the maximum square footage requirement of 25 square feet by 23 square feet (48 square feet total), exceeding the maximum height requirement of 6' by 2' (total height 8'), and encroaching 20' into the 25' building setback line and front yard requirement in an "A" Agriculture Zoning District. *(Complete legal on file.) Advertised in the Boonville Standard June 16, 2011.*

KC Jain approached the podium and stated he is representing the Tri State Hindu Temple, Inc.

Josh Vaal approached the podium and stated his address as 1300 N Royal Ave. Evansville, IN 47715 and he is representing Ameristamp Sign-a-Rama.

The Chairman called for a staff report.

Mrs. Rector stated they have all return receipts of certified mail back except two that were sent back as undeliverable (Cornell Excavating and James Bame) but the notices were all sent to the address of record on file with the Auditor's office. She stated as read on the agenda it is a request to allow a Variance for an ILP to be issued for an on-premise sign to replace the temporary sign. She stated a person is allowed 25 square feet in an Agriculture zoning and they are asking for a variance of 23 square feet with the total being 48 square feet. She stated they are also asking to exceed the maximum height requirement of 6' by 2' (total height of sign is 8'), and encroaching 20' into the 25' building setback line and front yard requirement in an "A" Agriculture Zoning District. She stated the Board should have a copy of the proposed sign in their packets showing that. She stated the applicant states on the application *that this is for the temple that is on Agricultural zoned property and the signage needs to be more visible for identification of the temple*. She stated the property to the north is zoned Agriculture with a residence. She stated the property to the west is zoned Agriculture and is Riverwind Baptist Church. She stated the property to the southwest is currently zoned "M-1" and is vacant but has been recommended for rezoning to "A" to go to the Commissioners hearing on July 11th and is intended to be subdivided for residences. She stated the property to the south is zoned Agriculture with residences and is Vann Park Estates. She stated the property to the southeast is zoned Agriculture and is vacant. She stated the property to the east is zoned General Commercial and is Warrick Research and Industrial Center #7. She stated there is no flood plain on the property. She stated that Robert Howard, County Engineer, submitted a letter stating the location of the sign (5' off the right of way) would not cause a sight distance problem but would like to advise that the sign be moved back away from the road because the location specified is directly over top a 48" culvert.

Mrs. Rector asked if the petitioner got that information.

Mr. Vaal stated he did get that information and he wanted to pass out an amended plot plan and asked if they would be able to adjust the distance. He stated he thinks the County Engineer recommended 48 inches so they set it back 4 more feet.

Mrs. Rector stated this is a private culvert that the temple put in on their own property. She stated it is not a County culvert. She stated the Engineer had suggested the placement for their own protection in case anything happened and they needed to take it out and replace it. She stated to the Board that when she says 5' off the right of way, it does not mean 5' off of the pavement, there is additional land between the pavement and the edge of the right of way.

Attorney Doll asked what the right of way is.

Mrs. Rector stated 50' total, 25' from center. She stated if they are going to ask for an amendment to the plot plan the Board would have to vote on that first. She stated they want to change it from 30' from center of the road to 34'. She clarified they want to be 9' from the edge of the right of way, encroaching 16' into the building setback line.

There was some discussion on whether to vote on the amended plot plan at this point in the meeting

The Chairman stated they have a request by the applicant to make the amendment to accept the Engineer's suggestion of moving the sign to a new location of 9' from the edge of the right of way instead of 5' from the edge of the right of way. He asked if the Board understood the amendment and if they had any questions. There being none he entertained a motion.

Don Mottley made a motion to accept the amendment of the plot plan to move the sign back 4' (a total of 9') from the edge of the right of way.

Scott Dowers seconded and the motion carried with the members voting in the following way:

Larry Willis voted aye
Scott Dowers voted aye
Don Mottley voted aye
Tina Baxter voted aye
Judy Writsel voted aye
Mike Winge voted nay

The Chairman asked if the petitioner had anything else to add.

Mr. Vaal stated no.

Attorney Doll asked if this is an electronic message board.

Mr. Vaal stated no, it is just acrylic letter inserts.

Mrs. Writsel asked if it will be spotlighted at night.

Mr. Vaal stated it will be illuminated from inside, just the message piece.

Chairman Willis asked if this will be a monument sign, if it will be mounted to the ground and if the total height will be 8'.

Mr. Vaal stated yes.

Mr. Winge asked what the hardship is. He stated the biggest thing he sees on that lot is a tall rock. He asked isn't that what the Board should be looking for here. He stated his first question is what the hardship is because there is nothing blocking the sign, no obstacles, no anything. He stated he drives by it every day.

Mrs. Rector stated to the petitioners, to clarify what Mr. Winge is asking, why they could not place the sign out of the building setback lines and not need it so close to the road.

Mr. Vaal stated if they've been out there, they might notice that the temporary sign is not very visible. He stated this monument sign has decoration, so it doesn't like chintzy. He stated the monument is taking up a lot of the size itself but really the message area of the sign is 3' x 4'. He stated the rest is structure and curb appeal.

Mr. Winge asked why they couldn't make the sign bigger with less structure. He stated his question, the reason for this, it is supposed to be a hardship case. He stated if something is blocking the view like past signs or whatever they have there, they are looking at a corner lot here that has nothing. He stated there is absolutely nothing in the way in any direction. He stated they've got the building to go to, the entire parking lot. He stated these are supposed to be for hardship cases. He stated something that is going to create a problem, not just for a convenience type thing. He stated he doesn't see that it meets those requirements.

Mr. Vaal asked if Mr. Winge was suggesting it just be a big reader board.

Mr. Winge stated he is suggesting they have all kinds of avenues without having to put it out in any private way whatsoever. He stated if they had blockage, other buildings, if there was some other something, or any of the other signs that have come in here were being blocked then that would be reason to do it but there is nothing.

Mr. Vaal asked what are the other solutions for that.

Mr. Winge stated they've got a parking lot, open area all the way around the building. He stated they've got the building. He stated businesses put their signs on the building or they put it back off the parking lot or at the edge of the parking lot. He stated or on the corner.

Mr. Vaal asked what type of sign they are talking about.

Mr. Mottley stated it could be the same size sign.

Mr. Winge stated it could be the same size except he is going into an easement, he is encroaching where he doesn't even see there is even a need for it.

Mr. Mottley asked if they have a drive off of Vann Rd and Anderson Rd.

Mr. Jain stated the main entrance is off of Vann Rd. and a gravel entrance off of Anderson Rd. but the parking lot is attached to the entrance from Vann Rd.

Mr. Winge stated that sign can be along their entrance way off the easement because they've got such a large lot there. He stated they have had difficult situations with businesses coming in and being blocked by all kinds of different things, other signs etc. but they don't have any of those things.

Mr. Jain stated they have 5 acres of land, the temple is a small building but they are proposing to expand on both sides and expand also the parking lot there which may be a 2-3 year plan depending upon the funds available. He stated they want to put the sign where it is visible. He

stated right now the temporary sign has been there for 4 or 5 years. He stated they never cared to put a permanent sign there. He stated they want to put a permanent sign where people can see it and also change the lettering, name the priest and also the times etc. He stated that is why they have four lines they can change as they need to.

Mr. Winge stated he is just explaining his position, the reason he voted no on the amendment is because he is not seeing the hardship and that lot is probably as good as a situation that they are going to have to work with and not be infringing on anything.

Mr. Willis stated it is the building setback line that they are encroaching on.

Mrs. Writsel asked the applicant if he understood them correctly that they might someday be making the parking lot larger and they want to keep the sign as far out of the way of where the future parking lots might be.

Mr. Jain stated right now they are investigating how much they can do. He stated they have a short term and a long term plan. He stated they are short on parking at this time.

Mrs. Writsel stated parking might be moving towards the sign so they want to keep it as far away from the building as possible so they can add as much parking as they can.

Mr. Jain stated they don't want to put the sign on the building because they want to change the face of the building.

Mr. Mottley asked the applicant looking at the color drawing and gravel road, if they put the sign close to that gravel entrance, that would be set back far enough and it would also be seen either direction on that corner and they wouldn't have to have a variance, it could be the same size sign.

Attorney Doll stated they are not going to have an Anderson Rd. entrance as he understands.

Mr. Jain stated Vann Rd. is the main entrance.

Attorney Doll stated the sign ought to be by the entrance.

Mrs. Rector stated she wanted the Board to be aware that they are allowing churches or religious facilities in Agriculture zonings, Commercial zonings and Industrial zonings with a Special Use. She stated if they were in a Commercial zoning, they would have a 5' setback and could have a very large sign. She stated they are not. She stated if they were across the street from the Industrial Park they could have a huge sign 5' off the right of way.

Mr. Winge stated it would cost more money.

Mrs. Rector asked what would cost more money.

Mr. Winge stated in the Industrial Park.

Mrs. Rector asked why it would cost more money.

Mr. Winge stated because it just would.

Mrs. Rector stated that is not her point, her point is that maybe they need to look at some of these facilities where they are located.

Mr. Winge stated his question is with the other businesses and places up and down the road if it was the same. He stated if the hardship isn't there they've got plenty of ground in order to put a sign. He stated there are all kinds of engineers and whoever will come up with a solution for that. He stated he doesn't have a problem with it if it meets the requirements and he doesn't think it meets the requirements. He stated that is his issue with the whole thing.

Mrs. Rector clarified to the applicant, what Mr. Winge is asking is why they cannot be back behind the 25' building setback line from the property line along Vann Rd. instead of 9'.

Mr. Winge stated this is more convenience than anything and that is not a reason to have it.

Mrs. Writsel stated her understanding is they wanted to keep the sign as near the road as possible so if they expand the parking lot they would be able to expand it and not have a sign in the way.

Mr. Winge stated then they can take that for just about anything and everything the Board would basically pass it because they are thinking about doing something later but they don't know. He stated his point is that lot is extremely large and there's absolutely nothing out there. He stated he can't believe they can't get a sign in there.

Mr. Vaal stated the further back it goes the bigger the sign gets. He stated that thing will be huge.

Mr. Jain stated it is hard to see the sign when they are coming from Vann Rd. when it is in the middle of the property. He stated he understands they have a large piece of land but they have plans for future expansion, they don't want to relocate the sign once they make the future building plans. He stated the parking lot will definitely be expanded.

Mr. Winge stated what he is trying to say is they've got so much stuff around it if they are worried about the sign being seen, why isn't there more of the sign and a little less of everything else around it. He stated if they are worried about the sight of it they can meet the requirements and still have a bigger sign. He stated they are choosing to have a smaller sign and a lot more aesthetics to it and he is just simply saying this is supposed to be a hardship case and he doesn't see it in any way shape or form. He stated the sign is great but he thinks he has plenty of room all over that place to put a sign up. He stated he has a problem with encroaching. He stated he is all for him on the sign.

Mr. Jain stated 25' seems to be too far inside the lot. He stated the shape they gave to the sign of the temple is so that it looks like a temple and that is why it is a little bit taller than normal. He stated they tried to make the sign compatible with the structure in there. He stated this is the first

time they are putting in a sign. He stated they put a temporary sign several years ago. He stated he doesn't have a problem moving it a little bit here and there but he doesn't want to put it in the middle of the lot.

Mr. Winge stated as far as the actual design of the sign, that is not even the issue they are talking about, they are talking about encroaching and he doesn't think they need to be in any of that with what they have here. He stated it is more for convenience than anything else.

Mr. Vaal stated isn't that the purpose of a sign, to be able to see it. He stated it doesn't make any sense to him.

Mr. Winge stated his logic doesn't make any sense.

Mr. Vaal asked if he's been out there physically.

Mr. Winge stated yes he drives by there every day.

Mr. Vaal stated a person can tell if they have a sign that far back it just doesn't make any sense.

Mr. Winge stated as long as they are off the easement, the right of way, it can be beside the driveway, there's nobody driving through the middle if it's just off from the driveway one side or another and they are out of the area, they are fine.

Mr. Jain asked how far back do they need to put the sign.

Mr. Winge stated as long as they are not in the easement is where he doesn't have a problem with it.

Attorney Doll stated they are not in the easement. He stated they are talking about the setback just to get the record straight. He stated they are not in a 25' road right of way. He stated they are proposing a 16' variance in the setback. He stated so what Mr. Winge is asking them to do is to move it not only the 4' back that Bobby Howard requires because of the private culvert but they are asking them to move another 16' back further. He stated the justification for a variance for those that may be inclined under Section 2 of Article XXVI would be something unique to that location, some peculiar circumstance and if that circumstance is a future parking lot there is this drawing that has been submitted tonight showing Bobby Howard's proposed movement and there is a hatch marked parking lot but his understanding of a comment earlier that the contention was that even more parking may be added then what is shown on the drawing in the future.

Mrs. Rector stated she apologizes for not looking at this plot plan closer, anytime there is a corner lot, unless it is in a recorded subdivision with an established building setback lines, which this is not, one side can be 25' and the other is 15'. She stated they can use either, this is just put on a drawing when the temple was built. She stated even in Agriculture the ordinance states 'a corner lot minimum side yard, street side corner lot 15' so they can use the 25' building line along Anderson Rd. and the 15' building line along Vann Rd. so that would be another 6' they would gain closer to the road.

Attorney Doll clarified if they moved closer to the temple 6' and then they are out of the building line instead of moving 16'. He asked if the temple would accept as a compromise moving it another 6'.

Mr. Jain asked how far that is from the road.

Attorney Doll stated it would be 40' from the center of the road.

Mrs. Rector stated no, Vann Rd. has 60' of Right of Way, therefore it would 30' from center plus the 15' building line which is 45'. She stated first it was 4' further back from the original plot plan submitted for variance, now it would be a total of 10'.

Mr. Jain stated they will have to sacrifice some parking spaces.

Mr. Willis asked if he had anything else to add.

Mr. Jain stated no, not at this time, whatever is approved, they will need to go back and think over that but he still thinks 40' is a little too far.

Mrs. Rector stated the only thing they will be doing is moving the sign 6' further back from what they have already agreed to do tonight.

Mr. Jain stated yes, they had already agreed but now they want him to move 6' more. He stated 10' more than he originally thought.

Mr. Winge stated technically he is getting a bigger sign.

Mr. Jain stated maybe they can do a smaller sign if they can get closer.

Attorney Doll stated this is really three variances – height, size and setback but he hasn't heard anyone really talking about size or height.

Mr. Winge stated he was coming to that and asked if they've got anyone else on that road in the same similar situation because they've got businesses all up and down there as well as residential people.

Mrs. Rector stated well there's the whole industrial park and they all have 5' setbacks so of course they have them closer to the road than this is.

Mr. Winge stated but that's an Industrial Park.

Attorney Doll stated it is across the street.

Mrs. Rector stated to Mr. Winge that is what his question was; If there were other businesses closer to the road. She stated yes they are all closer than him.

Mr. Mottley stated and all these mailboxes that are breaking concrete that are sitting in the setback line, no one is complaining about them.

Attorney Doll stated they are sitting in the right of way.

Mr. Mottley stated and nobody has complained about those.

Attorney Doll asked the Applicant if they agree to the 15' setback or not. He stated he is not trying to put them on the spot but he is just trying to make sure they all know what they are discussing and voting on.

Mr. Jain stated he guesses the Board is giving him a directive and he has to go to his Board and get their agreement.

Attorney Doll stated he understands and they are not trying to make life difficult for him they are trying to make sure they can get it into a discussable format.

Mr. Jain stated he personally would not agree with that but he will go to his Board and if they want it in the middle of the parking then it will be okay but he personally doesn't agree with it.

Attorney Doll stated the other option is the Board could act on the Variance request as a conditional approval.

Mr. Winge stated or table it and let him go to his Board.

Mr. Mottley stated he will show Mr. Jain how far they are talking about moving the sign. He stood up and stated he is 6'2, so they are asking him to move it the height of him further back.

Attorney Doll stated it is really not that discernable from a moving car.

Mrs. Rector stated she thinks Mr. Jain is an Engineer and knows how far back 6' is.

Mr. Jain stated he wants to be as close as possible to the road without violating any Warrick County bylaws. He stated he is an Engineer, he sees the church down from him has a sign 5' from the road. He stated that is why he is surprised. He stated he is not trying to be non-cooperative but at the same time he just wants to get the Board's approval so they can get a sign but he just hates to see it in the middle of his 5 acre land, a sign which has no purpose.

Mr. Mottley asked about the church to the west of them, if they had to come for a Variance for their sign.

Mrs. Rector stated she thinks when that church was built the ordinance didn't require a Special Use, they just got a permit, and it was built so they probably didn't.

Attorney Doll stated so the church couldn't have its sign if it was constructed today, that sign would not be where it is.

Mr. Jain stated he is not speaking for anybody else but he is making his position a little clearer, because of the storm, the church sign was destroyed and they had to rebuild it. He stated he doesn't know if they came in front of this Board or not but that is not his concern. He stated all he is saying is all the other signs are so close whether it is for a church or the Industrial Park, why is he being asked to go back 45' which he will accept if that is what the verdict is.

Mr. Winge stated to let him answer the one with the church because he was the former building inspector, if it is there and pre-existing it can be repaired.

Mrs. Rector stated only if it is less than 60% destroyed.

Attorney Doll stated the Indiana Supreme Court in the Cracker Barrel case, where they had a non-conforming sign with a right to maintain the non-conforming sign. He stated they took it down to repair it and the Planning Commission stated they took it down, that is not maintaining so they sued. He stated it went to the Indiana Supreme Court and they said the Planning Commission is right, they could have put a cherry picker up there and it could have stayed but when they took it down they had to comply. He stated if the church's sign was destroyed they didn't have an automatic right to repair it.

Mr. Jain stated he doesn't know if they took it off or put it back but anyway, all he knows is they had to rebuild it.

Mr. Vaal stated the frustration is also the placement of the sign wasn't ideal to begin with, it is already as far back as they wanted it and now 10 more feet, 4 from Mr. Howard's request now 6 more feet.

Mr. Jain stated they had a temporary sign for 5 years, can they put that sign in the same place where it is right now, evidently no.

Attorney Doll stated he doesn't know where the sign is.

Mrs. Rector stated they just have a pole sign stuck in the corner.

Mr. Jain stated yes.

Mrs. Rector stated actually it should have been taken down when construction was completed and a permit obtained for a permanent sign.

Mr. Jain stated they are ready to take it down as long as they have some sign to replace it.

Mrs. Rector asked if Mr. Jain wants to go back and talk to his Board before they act on it.

Mr. Jain stated no ma'am.

Mrs. Rector asked if he wants to amend it further.

Mr. Jain stated no he personally doesn't want to amend it.

Mr. Mottley stated except with the 4' amendment they voted on earlier.

Mr. Jain stated yes, the 4' he will accept.

Mr. Willis asked if there were any remonstrators.

Earnest E. Nolan approached the podium. He stated he lives adjacent to the Hindu Temple.

Mrs. Rector asked if he is to the North.

Mr. Nolan stated he lives to the northwest. He stated he is present to speak against the variance for the size of the sign in height and width. He stated he is a professor at the University of Southern Indiana and he lives in Warrick County for a reason, at the location he lives in for peace and quiet and lack of noise and lights and so forth. He stated Warrick County has rules and regulations in place, zoning ordinances and so forth for a reason and it is to protect all the citizens of this County. He stated he has not seen or heard anything that tells him there needs to be an exception in this case.

Mr. Winge asked the Board if they look at this and entertain this, because of where he is at, he is having a problem with the way it is being proposed. He stated if they look at it and try to make everybody happy and let them bring the sign closer, can they not make them bring it down within the requirements of the size of the sign.

Attorney Doll stated it would be by half. He stated the permitted size in Agriculture Zoning is 25 square feet. He stated this is 48 square feet so it is almost twice as large as is permitted.

Mr. Winge stated he would rather see it put to the normal size and let them come closer to the road.

Mrs. Rector stated either / or is what Mr. Winge wants.

Mr. Winge stated either stay out of it or get it down to the size required. He stated they can still see it from the road if they let them bring it up to the road but that way the neighbors are happy and the temple is happy.

Mrs. Rector stated or get back behind the building setback lines at the size they are proposing.

Mr. Winge stated yes. He stated with the size they still have an issue of trying to make both sides happy. He stated the remonstrator's complaint is it is too big. He stated his feeling is they ought to look at keeping the sign the required size and allow them to bring it out closer to the road.

Attorney Doll asked the remonstrator to elaborate how he thinks the size of the sign is a bearing on peace and tranquility in the neighborhood. He stated he understands about cars coming and going for services but the sign, how does the sign standing there become a nuisance. He stated it doesn't make any noise.

Mr. Nolan stated it doesn't make any noise but it is obviously visible to the eye which is obviously what they want.

Attorney Doll stated it is generally the purpose of the sign.

Mr. Nolan stated absolutely and they have a right to have a sign that is within the zoning ordinance so it is the size of the sign and the light that it creates when they are outside at night, the larger the sign the more the sky lights up. He stated he likes to sit out on the patio and look at the stars, it's one of the reasons he lives there and with light pollution a person can't do that anymore.

Mrs. Writsel stated it would appear if they reduce the sign, the parts they would reduce would be the aesthetically pleasing parts, she feels certain that the lit part would not change because that is well within the limits. She stated she thinks the light that he is complaining about is not going to go away.

Mr. Nolan stated it may not but he doesn't see any reason not to follow the rules. He stated he asks his students at USI to follow the rules and he just hasn't heard anything that says there should be an exception.

Mrs. Writsel stated her concern is that if it is reduced it is going to become just another ugly sign and as it is right now it is really quite handsome. She stated it could be very aesthetically pleasing, a pleasant thing to go past and look at. She stated if it gets down to nothing but a reader board, it is going to be just one more ugly sign. She stated that is her opinion.

Mr. Winge stated he was saying shrink everything.

Mrs. Writsel stated but then the reader part would get to small to be useful.

Mr. Winge stated not if they are allowing them to come closer to the road.

Mrs. Rector asked Mr. Nolan to identify his property to the Board Members on the aerial and point out his house and barn.

Attorney Doll asked if he could even see this sign location from his porch.

Mr. Nolan stated it depends on where they put it. He stated he can't tell where it is from the letter and the information he got he can't tell where it is going.

Attorney Doll stated it will be theoretically next to the gravel drive.

Mrs. Rector stated nowhere near his house.

Attorney Doll asked if the temple itself wouldn't block the view from his house. He stated quite frankly if they move the sign back it may aggravate his problem.

Mr. Nolan stated he didn't speak against that, only the size.

Mr. Willis asked for the applicant to approach the podium.

Mr. Jain stated as far as the light, whether it's a bigger sign or a little bit smaller sign, the light is only for the reader board, it is not going to be a reflective sign for the neighborhood and all.

Mr. Willis clarified that the light is enclosed within the letter area so it will not be a spotlight type of illumination.

Mr. Jain stated correct. He stated there are also parking lights in there too but they are pointed downward, not at the road. He stated in fact he has complaints from some people that they can't see as they come in the parking lot. He stated that is how they had to design it. He stated there is a house just opposite their entrance from Vann Rd. and they are very cooperative and they have talked to them, they have no problem either way. He stated they would like to have the expansion. He stated as far as moving back is concerned, he doesn't mind if that is what is needed but he still feels it is not right to ask one organization, one company, to make the amendments whereas the rules are always changed. He stated that is why the amendments are there. He stated he has been a teacher for 20 years and they like to stick to the rules, that is why they are here in front of this Board. He stated they just didn't put the sign up without asking. He stated they hope they get the approval.

Mr. Winge stated the only thing he looks for is the hardship or the cause for it. He stated if they have the access and ability to stay within the boundaries of the rules then he wouldn't pass it. He stated what he is wrestling with is the fact not only are they getting a larger sign, but actually coming out further, more of a courtesy thing. He stated people that have had to come in front of the Board have had to have a legitimate reason for it and he feels like they've been real fair across the board for that and his problem is they've got a corner lot with no trees or anything and they are wanting to not only exceed the size where the remonstrator has a legitimate complaint there, but they are also wanting to be closer to the road and he just doesn't think that is right. He stated his personal feeling is he needs to work with the neighbors which he's had to do personally. He stated he has to compromise somewhere to make everybody happy. He stated he'd like to see the sign a little smaller and closer to the road or go back out with a larger sign.

Mr. Vaal stated they tried in the beginning to make it smaller and like Mrs. Writsel was saying it just gets too small, its unreadable.

Mr. Winge stated they are getting closer to the road.

Mr. Vaal stated they still can't read it.

Mr. Winge stated menu boards are set up a certain way, they can only fit so many letters in them, the smaller they get the less they can get in there and then it's just going to look stupid.

Mr. Jain stated they also want it to be shaped like a temple.

Mr. Willis stated part of the message is the shape of the temple.

Mr. Vaal stated that is what constitutes the size. He stated it is not the sign, it is to make it not ugly. He stated if they take the size away they still get the sign but then it is just ugly.

Mrs. Rector asked Mr. Jain if they are still just the 9' back or are they going ahead and getting it out of the 15' building setback line.

Mr. Jain stated he doesn't mind getting closer as long as his sign is not reduced too much. He stated 25' is like 4 x 6 but he can't get the shape of the temple in this.

Mrs. Rector stated so he wants to amend his petition to be 15' back from the property line which is also 45' back from the center of the road.

Mr. Jain stated correct.

Mrs. Rector continued that the only Variance they are now asking for is the size of the sign and the height of the sign.

Mr. Jain stated correct.

Mike Winge made a motion to amend the plot plan to show the sign 15' from the edge of the right of way of Vann Rd.

Don Mottley seconded and the motion carried.

Attorney Doll stated the practical difficulty that would justify the size of the sign at that location which creates an unnecessary hardship is the distance from the road and the size of the property.

Mrs. Writsel stated the distance from the road that is required would make the reader board unreadable.

Mr. Jain asked if they had a 2 acre tract of land if they could have a sign closer.

Attorney Doll stated no it is in the grand scheme of things and totality of their property, a sign 6 x 8 frankly is not that big in 5 acres, if it is on 1 acre it is going to be larger.

Mrs. Rector stated the Board is trying to come up with a reason for approval, so they are trying to help by saying because of the size of the property it disappears out there.

Mr. Jain stated that is the only temple they have in the tri-state area in a 100 mile radius and they want to look like a temple. He stated evidently every church or temple has financial problems, they do too, and they had to beg and borrow this money so they are trying to make it where they only have to come in front of this Board once.

Mr. Willis asked if the lighted portion of the sign will be on a timer or it will be on a photocell. He asked if it will be on all night.

Mr. Jain stated the parking lot lights are on a timer right now from 8 pm to 11pm or 8 to 12am.. He stated however he would like to keep the sign on all night from 8 pm to 4 am. He stated very rarely they have some functions where they go up to or after midnight.

Attorney Doll asked if the part that is lit is the message board in the center and asked if the name Tri-State Hindu Temple and the address is back lit or not.

Mr. Vaal stated no, just the reader board. He stated it is internally illuminated.

Attorney Doll stated and there are no side lights that would shine towards this gentleman's property. He asked how thick the sign was. He asked if there were any ground spots or anything else.

Mr. Vaal stated no, the sign is around 12 inches thick. He stated there are no side lights or ground spots.

The Chairman asked if there were any further questions or discussion. There being none he entertained a motion.

Don Mottley made a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the distance from the road and the size of the property.

4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions as amended:
 - a) Subject to an Improvement Location Permit being obtained.
 - b) Subject to any required Building Permit from the Warrick County Building Department being obtained.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easement and facilities in place.

The motion was seconded by Judy Writsel and unanimously carried.

Mrs. Rector stated he can pick up his approval on Wednesday and they can go over all the other information he was given this evening.

OTHER BUSINESS:

None.

ATTORNEY BUSINESS:

None.

EXECUTIVE DIRECTOR BUSINESS:

None.

Being no other business the meeting adjourned at 7:01 P.M.

Larry Willis, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held June 27, 2011.

Sherri Rector, Executive Director